

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES  
2 SKYLINE, 10th FLOOR  
5203 LEESBURG PIKE  
FALLS CHURCH, VIRGINIA 22041

AUG 6 1986

TUNNELTON MINING COMPANY,  
Contestant

v .

SECRETARY OF LABOR,  
MINE SAFETY AND HEALTH  
ADMINISTRATION (MSHA),  
Respondent

: CONTEST PROCEEDINGS  
:  
: Docket No. PENN 86-65-R  
: Citation No. 2696550; 12/11/85  
:  
: Docket No. PENN 86-66-R  
: Citation No. 2696551; 12/11/85  
:  
: Docket No. PENN 86-67-R  
: Citation No. 2696552; 12/11/85  
:  
: Docket No. PENN 86-68-R  
: Citation No. 2696554; 12/12/85  
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: Docket No. PENN 86-69-R  
: Citation No. 2696555; 12/13/85  
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: Docket No. PENN 86-70-R  
: Citation No. 2696556; 12/13/85  
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: Docket Na. PENN 86-71-R  
: Citation No. 2696557; 12/13/85  
:  
: Docket No. PENN 86-108-R  
: Citation No. 2696464; 2/10/86  
:  
: Docket No. PENN 86-111-R  
: Citation No. 2696473; 2/27/86  
:  
: Marion Mine

ORDER OF DISMISSAL

Before: Judge Koutras

These proceedings concern notices of contests filed by the Contestant Tunnelton Mining Company pursuant to section 105(d) of the Federal Mine Safety and Health Act of 1977, challenging the validity of nine section 104(a) non-"S&S"

citations issued by an MSHA inspector at its Marion Mine on December 11, 12, and 13, 1985. The citations charge Tunnelton with nine alleged violations of mandatory safety standard 30 C.F.R. § 75.1101-5(a), because of its purported failure to provide foam generator fire suppression devices capable of discharging foam to certain electrical components used in conjunction with certain belt conveyor drives at different locations in the mine.

Tunnelton filed a motion for summary decision and requested expedited consideration in light of the abatement deadlines imposed by MSHA. The abatement times were extended by MSHA, and extensions were also granted for the purpose of permitting MSHA to file its responses to the request for summary decision. Subsequently, the parties resolved the dispute and MSHA agreed to accept Tunnelton's alternative means of compliance with the mandatory safety standard in issue. At the same time, MSHA vacated the contested citations, and the parties are now in agreement that these contests may be dismissed.

ORDER

In view of the fact that the disputed citations have now been vacated, and with the agreement of the parties, these contests ARE DISMISSED.

  
George A. Koutras  
Administrative Law Judge

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